

C. C., the applicant in this proceeding, and respondents Matrixx Marketing Inc. and Workers Compensation Fund, (jointly referred to as "Matrixx") have asked the Utah Labor Commission to review Administrative Law Judge George's decision regarding Ms. C.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

BACKGROUND AND ISSUES PRESENTED

Ms. C. fell while working for Matrixx on December 13, 1996. On November 3, 1998, she filed an Application For Hearing with the Commission to compel Matrixx to pay workers' compensation benefits for injuries allegedly caused by her work-related accident. The parties waived their right to a hearing and instead stipulated to the facts and also stipulated that Judge George should refer Ms. C.'s claim to an independent medical panel. The medical panel issued its report on January 25, 2002. Judge George issued his decision on October 30, 2003, overruling Ms. C.'s objections to the panel report and awarding benefits consistent with the report.

Ms. C. now seeks review of Judge George's decision on the grounds she was denied a hearing and the decision is based on incorrect medical facts. Matrixx seeks review on the grounds that Judge George erroneously awarded temporary total disability compensation for a period of time when Ms. C. had returned to work at Matrixx.

DISCUSSION AND CONCLUSION OF LAW

As a preliminary matter, the Commission notes Matrixx's claim that Ms. C. did not file her motion for review within 30 days as required by law. However, because Judge George granted Ms. C. additional time, her motion for review is timely.

Turning to the substance of Ms. C.'s motion for review, although she alleges Judge George's findings of medical fact are in error, she has not identified any specific evidence to support her allegation. The Commission has reviewed the evidentiary record on this matter and concludes that Judge George's findings of medical fact are correct.

For its part, Matrixx contends that it was error for Judge George to award temporary total disability compensation to Ms. C. for the period of May 14 to August 15, 1996, since she had returned to work at Matrixx during that time. The evidentiary record supports Matrixx's contention. The Commission therefore amends Judge George's Order accordingly.

ORDER

The Commission denies Ms. C.'s motion for review. The Commission grants Matrixx's motion for review and strikes the first paragraph of Judge George's Order, found at page 10 of his

decision. It is so ordered.

Dated this 12th day of April, 2004.

R. Lee Ellertson, Commissioner